

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NATHAN P. GOLDSTEIN, as he is EXECUTIVE
DIRECTOR, MASSACHUSETTS LABORERS'
BENEFIT FUNDS,

Plaintiff,

v.

BATISTA CONTRACTING LLC, ROCHESTER
BITUMINOUS PRODUCTS, INC., and
ROCHESTER PAVING CO., INC.,

Defendants.

Civil Action No. 1:22-cv-10807-PBS

**JOINT MOTION TO REFER MATTER FOR ALTERNATIVE DISPUTE
RESOLUTION AND TO STAY**

The parties respectfully move this Court to refer this matter for mediation with Magistrate Judge Judith G. Dein (“Judge Dein”) or, in the event Judge Dein is unavailable in the near future, Magistrate Judge Jennifer C. Boal (“Judge Boal”), and to stay the matter during the pendency of that mediation. In further support thereof, the parties state as follows:

1. Prior to incurring additional attorneys’ fees and costs, the parties would like to endeavor to resolve the matter expeditiously.
2. Since the time that the parties initially considered mediation, they have expended significant resources on briefing and document review and production. The Court has scheduled a hearing on August 15, 2023 on outstanding motions brought by the parties. The parties recognize that there will be significant costs to continuing to litigate the matter, particularly as substantial discovery remains in this case.

3. The parties are now better-positioned to resolve this dispute than they have been previously, and are motivated to seek a mutually agreeable resolution.

4. Particularly in light of the currently scheduled August 15, 2023 hearing in this matter, the parties agree that staying the litigation pending mediation would make resolving the matter more likely.

5. The parties request Judge Dein as a mediator. If Judge Dein is unavailable prior to October, 2023, the parties request Judge Boal as a mediator. If neither is available prior to October 2023, the parties agree to discuss whether to use another magistrate judge or pursue private mediation.

6. The parties submit that referring the case to Judge Dein or Judge Boal while staying the proceedings is in the interests of judicial economy and efficiency.

WHEREFORE, the parties request that the Court refer this matter for mediation and enter an order that the matter is stayed pending mediation.

Respectfully submitted,

NATHAN P. GOLDSTEIN, as he is
EXECUTIVE DIRECTOR,
MASSACHUSETTS LABORERS'
BENEFIT FUNDS,

By his attorneys,

/s/ Sasha N. Gillin

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ROCHESTER BITUMINOUS PRODUCTS,
INC. and ROCHESTER PAVING CO., INC.

By their attorneys,

/s/ Benjamin J. Wish

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By its attorneys,

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Dated: July 11, 2023

CERTIFICATE OF SERVICE

I, Benjamin J. Wish, hereby certify that this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the notice of Electronic Filing (NEF).

/s/ Benjamin J. Wish
Benjamin J. Wish